Subloop unbundling. Finally, the Commission should require sub-loop unbundling, which – in many cases – is the only feasible means for CLECs to deploy DSL service.

The deployment of DSL technology requires that a specialized modem be placed at the data customer's premises and that a paired device be located in the ILEC's network. As recognized in the *Notice*, ILECs are increasingly deploying concentration devices at remote terminals (such as digital loop concentrators) in their networks between the customer's premises and the customer's serving end-office.[41] These devices are used to aggregate subscriber traffic for transmission to the carrier's end-office over fiber-based common transmission facilities. Technology is now being developed that would allow the ILEC (or its affiliate) to provide DSL service by placing a line card in the remote terminal device. If the ILEC is not required to unbundle its loops into sub-elements, and allow the collocation of equipment at the remote terminal, then competitive LECs will be precluded from providing DSL services to the increasing number of potential data customers served by loops that pass through remote terminals.[42]

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[41] *See Order & NPRM* ¶ 165.

[42] Requiring the CLEC to obtain a full loop as a UNE is generally not a viable alternative. DSL equipment can only operated properly if it is connected by a transmission line that does not exceed certain maximum lengths. Because a significant number of customer loops exceed these lengths, installation of DSL equipment in ILEC end offices often is inadequate. In other instances, the length of the loop leads to a degradation in transmission quality, *i.e.*, the longer the loop, the lower the bandwidth. For example, if the ILEC affiliate is allowed to place a line card at an RT that is 1,000 feet from the customer's premises, it can provide service to customers with a data rate of 6 *million* bits

2. Collocation

ITAA strongly supports the Commission's proposal to require ILECs to provide more flexible collocation arrangements. In particular, the Association supports the Commission's proposal to require the ILEC's to maximize the space available in their premises for advanced services equipment by offering competitors "cageless" collocation arrangements.[43]

The provision of advanced services, such as DSL, requires the collocation of equipment, such as a DSLAM, in every central office that serves an end-user. Today, many ILECs require CLECs to segregate CLEC-deployed equipment in a locked "cage." While these facilities provide no discernible benefit to the ILEC, they cost the CLEC anywhere from $60,000 to $100,000 to construct. The high cost of placing equipment "behind bars" in multiple end-offices makes it economically inefficient for CLECs to provide service in many markets. This is especially true in less densely populated areas. Requiring the ILECs to provide cageless collocation would significantly reduce the cost of entry, thereby allowing CLECs to bring the benefits of competition to many potential data customers.

B. The Commission Should Ensure That Its Separate Affiliate Rules Can Accommodate ITAA's D-CAP Proposal

ITAA has previously called on the Commission to initiate a proceeding to create a new category of service provider – Data Competitive Access Providers ("D-CAPs") – to

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per second. If the CLEC is required to place a DSLAM in a central office located 20,000 feet from the customer's premises, the fastest possible data rate that it could provide would be 144 *thousand* bits per second.

[43] *Order & NPRM* ¶ 137.

transport packetized DSL traffic between the ILEC central office and their ISP.[44] Under this proposal, an ILEC would be obligated to hand-off aggregated DSL traffic to a D-CAP either at the ILEC's remote terminal or central office.[45] The D-CAP would then transport this traffic to the ISP's premises over a competitively provided local packet network.

This approach would allow D-CAPs to provide advanced packet transport service to ISPs without having to provide DSL-based loops to end-users. By lowering the cost of entry, this approach would encourage companies to offer advanced telecommunications services. Moreover, by separating the provision of loop service from the provision of local packet transport, it would reduce the ability of the incumbent LECs to use their control over DSL-based loops to discriminate in favor of their information services affiliates and against non-affiliated ISPs.

If the Commission authorizes the creation of D-CAPs, these carriers will need the right to receive aggregated DSL traffic, regardless of whether such traffic was originated by the ILEC itself (if the ILEC provides DSL service on an integrated basis) or the ILEC's advanced services affiliate. The Commission therefore should make clear in this proceeding that an advanced services affiliate – like any carrier – has a statutory duty to interconnect with other carriers.[46]

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[44] *See Comments of the Information Technology Association of America*, CC Docket No. 98-146, at 8-10 (filed Sept. 14, 1998; *Comments of the Information Technology Association of America*, CC Docket Nos. 95-20, 98-10, at 30-31 (filed Mar. 27, 1998).

[45] For this service, the ILEC would be required to charge the D-CAP a cost-based interconnection rate that reflects its cost to: (1) strip off voice traffic (if required); (2) packetize and multiplex the data traffic onto the D-CAP's trunks so that the D-CAP can carry the traffic on its own high-capacity packet network; and (3) physically interconnect with the D-CAP. To deter discrimination, the incumbent LECs would be required to charge the same rate when it hands this traffic off to its information service affiliate.

[46] *See* 47 U.S.C. § 251(a).

CONCLUSION

Although the Commission's separate affiliate proposal creates a serious risk of anticompetitive abuse by the ILECs, it also holds the potential to facilitate competitive entry into the local data transport market. On balance, ITAA believes that the potential pro-competitive benefits of the proposal outweigh the risks. However, to ensure that the ILECs and their advanced services affiliates do not harm competition, the Commission should modify the separate affiliate requirement and nondiscrimination safeguards proposed in the *Notice*. In particular, the Commission should: (1) strengthen the proposed separate affiliate requirement to ensure that it provides incentives for the ILECs to deploy advanced telecommunications services while still preventing anti-competitive abuse; (2) ensure that the ILEC separate affiliate does not

act in a manner that limits the ability of subscribers to use the information service provider of their choice; and (3) adopt its proposal to provide CLECs with access to unbundled loops and increased collocation opportunities.

Respectfully submitted.

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